



Norman H. Bangerter

Governor

Dee C. Hansen

Executive Director

Robert L. Morgan

State Engineer

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

1636 West North Temple, Suite 220
Salt Lake City, Utah 84116-3156
801-538-7240

March 9, 1990

Mr. Douglas A. Taggart
Van Cott, Bagley, Cornwall & McCarthy
Suite 900, 2404 Washington Boulevard
Ogden, Utah 84401

Dear Mr. Taggart:

Re: Water Right No. 35-7315
(Ogden River Decree, Award 315)

Pursuant to the information and deed resulting from your visit to the office Monday, ownership of Award 315 in the Ogden River Decree was reviewed. The adjudication maps drawn in the 1920's do not name some of the ditches serving land in Section 7, T7N, R1E, S1EM and do not have the diversion points tied specifically to the various awards. Also some diversion points described in the decree differed from the proposed determination and/or were located in sections that were not mapped in the 1920's. This is the case with the Pine Tree Ditch and the Penrod and Wade Ditch. From the information you had concerning the configuration of the ditch system serving Shaw properties, it appeared that the Pine Tree Ditch and the Penrod and Wade Ditch could represent sections of the same ditch.

In response to the above data, the deed conveying 1/5 of the water from Penrod and Wade Ditch from James Shaw to Lawrence Shaw and thence later to Clair Shaw could now be tied to Award 315 for irrigation of 15.3 acres. The language ("1/5 of the water of the Penrod and Wade Ditch as now located on said premises") is somewhat ambiguous as to the amount to be conveyed. At present, title has been updated to 1/5 of this award (3.06 acres) to Clair Shaw and the remainder via other property deeds to Shaw Land & Livestock Company.

The language of the deed could be interpreted as conveying 1/5 of all ditch water and not just 1/5 of James Shaw's portion. If this were the case, we would have to add the four awards for the ditch (#289 for 7 acres, #290 for 14 acres, #315 for 15.3 acres, and #316 for 22.4 acres). One-fifth of the total (58.7 acres) would be 11.74 acres from Award 315 to Clair Shaw; the remaining portion would go to Shaw Land & Livestock Company. If the second case is the intended one, we would need further input from the present owners.

3-9-90

Lee:

You have apparently
required Shaw Land &
Livestock to install
measuring device.

Attorney Taggart came
in to locate the
right of ditch involved
resulting in this
letter.

Yours truly,

Marge Tempest

Marge Tempest
Title Section